



14 SEP 2007

Rothwell, Figg, Ernst & Manbeck
1425 K Street, N.W.
Washington, D.C. 20005

In re Application of
ZAWIERUCHA et al.
Application No.: 10/583,364
PCT No.: PCT/EP04/14424
Int. Filing Date: 17 December 2004
Priority Date: 19 December 2003
Attorney Docket No.: 3165-147
For: METHOD FOR CONTROLLING
CONIFEROUS PLANTS

DECISION ON PETITION

This decision is issued in response to applicants' "Response to Notification of Missing Requirements" filed 24 April 2007 which is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 17 December 2004, applicants filed international application PCT/EP04/14424 which claimed a priority date of 19 December 2003. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee was to expire on 19 June 2006.

On 19 June 2006, applicants filed a Transmittal Letter for entry into the national stage accompanied, *inter alia*, by: the requisite basic national fee; a copy of the international application; and a preliminary amendment.

On 26 February 2007, the United States Designated Office (DO/EO/US) mailed a Notification Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a signed oath/declaration of the inventors in compliance with 37 CFR 1.497(a) and (b) together with a surcharge payment were required. The notification set a two-month time limit in which to respond.

On 24 April 2007, applicants filed the present petition which was accompanied, among other things: a copy of the declaration and power of attorney and a post card receipt dated 19 June 2006.

DISCUSSION

Applicants state in their present petition that a declaration and power of attorney was received at the United States Patent and Trademark Office on 19 June 2006. A review of the present application reveals that the declaration and power of attorney is not located therein. Section 503 of the Manual of Patent Examining Procedure under the heading "RETURN POSTCARD" states, in part:

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."

Here, applicants have provided a copy of their date-stamped filing receipt. The receipt identifies the application by the first-named inventor, corresponding international application number, and attorney docket number. The receipt itemizes, among other things, a declaration and power of attorney. The receipt is stamped "Rec'd PCT/PTO 19 June 2006" across its face is sufficient to indicate that the above item was in fact received in the Office on 19 June 2006.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is GRANTED.

In view of the declaration filed 19 June 2006, the Notification of Missing Requirements (Form PCT/DO/EO/905) dated 26 February 2007 is hereby VACATED.

The application is being returned to the United States Designated/Elected Office for further processing in accordance with this decision.


Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459